

letter from Mr. Greenhalgh) Mr. John Thomas, Legacy Project Manager for UDOT; and Mr. David Gibbs, Division Administrator, FHWA. At this time, I respectfully request your signature on this MOA. Upon signing, please return to my office for distribution to all consulting parties and execution with the Advisory Council on Historic Preservation.

I would also like to pass along my appreciation for the continued involvement of the SHPO throughout the development of the MOA. Because of the mutual trust and understanding that we have developed, I believe we are helping one another achieve our respective missions, which ultimately better serves the state of Utah, it's resources, and it's residents.

Thank you for your attention to this matter. At your request, I will be available to meet with you to discuss any concerns you might have. Please feel free to contact me at 801-963-0078, Extension 235 to answer any questions or provide any additional information.

Respectfully,

A handwritten signature in black ink, appearing to read "Jeff Berna", written in a cursive style.

Jeffrey Berna
Environmental Specialist

Enclosures:

- #1 Figure illustrating location of Archaeological Sites in project area (11x17")
- #2 Legacy Parkway Final MOA (for signature)

cc: John Njord, Director UDOT
John Thomas, Legacy Project Manager
Greg Punske, FHWA Environmental Manager

JBerna:dm

MEMORANDUM OF AGREEMENT

Regarding the

LEGACY PARKWAY PROJECT

**Project No. SP-0067(1)0
Salt Lake and Davis Counties, Utah**

WHEREAS, the Federal Highway Administration, Utah Division (FHWA) has determined that the Legacy Parkway Project between the I-215 Interchange, northern Salt Lake County, Utah and Burke Lane north of Farmington, Davis County, Utah (hereinafter called the Project) may have an effect upon properties included in or eligible for inclusion in, the National Register of Historic Places (NRHP), and has consulted with the Utah State Historic Preservation Officer (USHPO) in accordance with 36 CFR 800.6(b)(1), regulations implementing Section 106 of the National Historic Preservation Act (NHPA)(16 U.S.C. 470f) to resolve the adverse effects; and

WHEREAS, the Utah Department of Transportation (UDOT) is the agency coordinating this Project on behalf of the FHWA and has participated in the consultation, the FHWA has invited them to sign this Memorandum of Agreement (MOA) pursuant to 36 CFR 800.6(c)(2) as an invited signatory; and

WHEREAS, the Northwestern Band of Shoshone of the Shoshone Nation, Idaho and Utah; the Ute Indian Tribe of the Uintah-Ouray, Utah; the Confederated Tribes of the Goshute (Ibapah), Utah; the Skull Valley Band of Gosiute, Utah; and the Shoshone Bannock Tribes, Idaho (hereafter called Tribes); and the Utah Division of Indian Affairs participated in the technical coordination and consultation and have been invited by FHWA to sign this MOA pursuant to 36 CFR 800.6(c)(2) as concurring parties; and

WHEREAS, the residents of the Clark Lane Historic District (CLHD), Farmington, have participated in the technical coordination and consultation and have been invited by FHWA to sign this MOA pursuant to 36 CFR 800.6(c)(2) as a concurring party; and

WHEREAS, in accordance with 36 CFR 800.6(a)(1), the FHWA has notified the Advisory Council on Historic Preservation (Council) of its adverse effect determination, with specified documentation, and invited the Council to participate in the consultation; and

WHEREAS, a legal injunction halted archaeological and construction activities done under a prior MOA for this Project, the parties to this MOA agree that upon execution, all stipulations and conditions contained within this MOA will take precedence over the previously executed MOA for the Project; and

WHEREAS, the Project is large and complex, with a potential for the discovery of additional properties eligible for inclusion in the NRHP, the FHWA intends to use the provisions of this MOA to address all activities that may result in impacts to both known and inadvertently discovered historic properties; and

WHEREAS, the Project's area of potential effect (APE) for this undertaking includes all lands subject to Project activities or activities directly funded by the Project as delineated by Alternatives A, B, C, D, E, and Redwood in Appendix A; and

WHEREAS, the parties to this MOA have considered the applicable requirements of the Utah Native American Graves Protection and Repatriation Act of 1992 (Utah NAGPRA)(U.C.A. 9-9-401, et seq., and its implementing Rule R230-1), and the Utah Code 76-9-704 in the course of consultation; and

WHEREAS, the parties to this MOA recognize that every reasonable effort should be made to protect Traditional Cultural Properties (TCP) from possible harm by the Project, it is incumbent upon the tribes or such interested party(ies), to identify any TCPs believed to exist within the Project APE;

NOW, THEREFORE, the FHWA, the UDOT and the USHPO agree that the undertaking shall be implemented in accordance with the following stipulations in order to take into account the effect of the Project on historic properties.

STIPULATIONS

The FHWA shall ensure that the following measures are carried out. To aid the signatories of this MOA, the stipulations are organized in the following order:

1. Environmental Control Supervisor
2. Clark Lane Historic District
3. Archaeological Testing
4. Archaeological Data Recovery
5. Historic Structures
6. Inadvertent Discovery of Cultural Resources
7. Project Specific Procedures for Implementing Utah NAGPRA
8. Administrative Stipulations

1. ENVIRONMENTAL CONTROL SUPERVISOR

An Environmental Control Supervisor (ECS) will be required for the Project. The ECS will be responsible for monitoring and ensuring compliance with the stipulations and mitigation commitments contained within this MOA. The ECS's contact information will be provided to the FHWA, the UDOT, the USHPO, the Tribes, and the homeowner(s) and tenant(s) located at 368, 382, 393, 398, and 399 W. State Street, Farmington, UT prior to the resumption of construction activity.

2. CLARK LANE HISTORIC DISTRICT (CLHD)

2.1 *Design Measures to Minimize Harm*

The following measures have been developed to ensure that project-related impacts from the Project are minimized and stipulations are in place to return the conditions of the CLHD and its contributory elements to their original pre-construction condition.

- No Change in Capacity or Function of Bridge. The existing bridge over I-15 and Lagoon Drive will be replaced with a structure of similar design and orientation, thereby maintaining a 2-lane configuration and not altering appearance or traffic patterns in the area.
- Lighting and Associated Safety Concerns. Standard lighting fixtures have been incorporated into the design of the new bridge.
- No Haul Route Traffic. Truck traffic and associated impacts will be reduced during construction by not allowing State Street to be used as the principle haul route for the Project. Construction vehicle traffic will occur around the juncture of Clark Lane and State Street while removing and replacing existing traffic and pedestrian bridges.
- Minimal Grade Change. Efforts have been made to design a new bridge with as little grade change to State Street as possible. The new grade height is estimated at 18" on the east side of the bridge and will taper to existing road grade in front of 393 W. State Street. The change in height for 399 W. State Street is estimated at 12". The driveways of 393 and 399 W. State Street will be tapered to the new State Street grade.
- Sidewalk Moved. Sidewalks will be incorporated within the new bridge structure, requiring the redesign of the sidewalk in front of 399 W. State Street. This redesign moves the sidewalk further from the house and improves control of water runoff.
- Water Control. Several water catchments will be added to the east of the new bridge structure, which in conjunction with the new curbs, will improve the management of water runoff so as not to impact the yards or foundations of the historic homes.
- Pavement Converted to Green Space. The new State Street design east of the new bridge will convert approximately 1068 square feet of pavement within existing right-of-way to green space within right-of-way. Existing homeowner irrigation lines will be extended to water this new green space with homeowner's approval. If no irrigation system exists, or if the homeowners do not want to extend their irrigation lines to the new green space, then appropriate landscaping will be used.
- Mature Trees Protected. The mature trees in front of 393 and 399 W. State Street will be protected from fill through the use of short block (or rock) walls surrounding the trunks. Material to be used in the construction of these small walls will be determined in consultation with the property owner.
- No Historic Property Takes. There will be no property takes from any of the historic properties. Temporary easements will be needed to move the sidewalk, slope (or terrace) the yard towards the new sidewalk, taper the driveways of 393 and 399 W. State Street and add curb and gutter on the northeast of State Street and Clark Lane.
- No Change to Sound Walls. Existing sound walls will be left in place along the west side of 399 W. State Street.
- Maintain Existing Landscape Features. The existing landscape wall and associated

plantings in the front of 399 W. State Street will be protected to the extent possible during construction. Upon removal of the sidewalk, new landscaping will take into consideration the existing wall and match with in-kind materials to the extent possible.

2.2 *Measures to Minimize Potential Harm from Construction-Related Vibration*

The following measures are included within the MOA to reduce the likelihood of potential impacts caused by construction-related vibration. In the unlikely event that the ECS or homeowner(s)/tenant(s) believe such harm has occurred, the responsibilities of all parties is described below.

- Pre-drilled Pilings an Option. Pre-drilling of pilings may be used by the contractor to increase the distance from piles to the historic homes thereby reducing the potential for vibration effects on the homes.
- Energy of Pile-Driving Hammers Limited. The maximum rated energy of pile-driving hammers will be limited to 54,000 foot-pounds for all impact-driven piles within 200 feet of the buildings within the CLHD.
- Notification. The homeowner(s) and tenant(s) at 368, 382, 393, 398, and 399 W. State Street, the USHPO, the UDOT, and the FHWA shall all be notified by the ECS of any pile-driving activities at least five (5) days in advance (preferably greater advance notice if known).
- Pre- and Post-Construction Surveys of Structures. A pre-and post-construction survey of all buildings or structures located on the property of 368, 382, 393, 398, and 399 W. State Street will be required. The survey will consist of photo and written documentation of the structures' exterior and interior condition to the extent possible. This means at least one photograph of all elevations from all cardinal directions, of professional quality black/white 35 mm photographs (3 x 5" prints with accompanying negatives) to show all exterior elevations (where possible to obtain all elevations), the streetscape, and detailed photographs of all areas most sensitive to vibration effects. Photographs of exterior architectural trim/decorations shall also be submitted. Photographs shall be numbered and labeled with address (street and city) and date the photograph was taken, and keyed to a site plan and floor plan. All prints and negatives shall be submitted in archival quality protective storage pages. When allowed by owners, interior photographs shall be taken of each wall in every room of these structures for the purposes of documenting present conditions.
- Vibration Monitoring. Two vibration monitors will be placed, one on the foundation and one on the upper elevation, on the home at 399 W. State Street and record vibration levels throughout the duration of pile driving activities within two hundred (200) feet of the home. Two additional monitors will be placed on the foundation and upper elevation of the home at 368 W. State Street and record vibration levels during this same time. In addition to monitoring the effects of distance from the pile driving activities, the monitoring of 368 W. State Street will provide an opportunity to study the effects of roadway traffic on the historic home and thus require synchronization between the vibration data and a recordation of the cause of the vibration (i.e. bus, car, heavy truck). The synchronization can be accomplished by either visual tabulation

- means or video, whichever is found to accomplish the task most efficiently and effectively as determined by the ECS and UDOT.
- Modifications to Vibration Monitoring Plan. The monitoring plan described above meets the minimum requirements for recordation. With the approval of the homeowners and agreement amongst the ECS, UDOT, and FHWA, additional monitoring data should be gathered (i.e. pre-drilling baseline data or additional roadway data) if equipment is available. Additional modifications to the monitoring plan can be made if agreement is reached amongst the USHPO, UDOT, FHWA, and applicable homeowners/tenants (i.e. location and placement of the monitors).
 - Exceeding Vibration Threshold of 0.12 in/sec. Pile-driving activities will stop and other less vibration-intense activities must be employed if any vibration monitor readings exceed 0.12 in/sec or if there is visual evidence that the pile driving is causing damage to a structure. A determination will be made by the ECS as to whether such vibration levels are the result of pile-driving activities. If so, the selection of alternative methods will be made between the contractor and UDOT with input from the ECS and approval from FHWA when necessary. Such methods may include using smaller pile drivers or continuing with pre-drilled piles.
 - Identification of Damage. If damage to the structures located at 368, 382, 393, 398, or 399 W. State Street is observed by the ECS, the ECS will be responsible for identifying and stopping the responsible activity if known and within the control of the Project team.
 - Notification of Damage. If any of the homeowner(s) or tenant(s) within the CLHD observe damage or believe damage to be caused by activities related to the Project, they are responsible for notifying the ECS as soon as possible. The ECS will assess the claim and report to the homeowner(s) and/or tenant(s) within twenty-four (24) hours.
 - Resolving Damage Claims: If it is agreed amongst the UDOT and the homeowner(s) that damage has occurred to a structure as a result of the activities of the Project, the damage will be documented and the structures restored to the documented condition existing before damage occurred with in-kind materials and workmanship.
 - Contact Information: If any of the homeowner(s) or tenant(s) within the CLHD believes that the terms of this MOA are not being met, or that their concerns are not being heard or addressed by the Project's ECS, they may contact the Legacy Project Office or the FHWA Utah Division Office directly.

Legacy Parkway Office
360 N. 700 W., Suite F
North Salt Lake, UT 84054
(801) 951-1026
(800) 483-4587

U.S. Department of Transportation
Federal Highway Administration
Utah Division
2520 West 4700 South, Suite 9a
Salt Lake City, UT 84118-1847
(801) 963-0182

3. ARCHAEOLOGICAL TESTING

Site 42Dv97 (Historic Privy) will be tested subsurface to make a final determination of eligibility or assess data recovery potential. A written testing plan will be developed by UDOT and submitted to the USHPO for review and comment. If Site 42Dv97 is subsequently determined by UDOT to meet NRHP eligibility requirements for its information potential and will be adversely effected by the Project, then significant deposits at the site will undergo archaeological data recovery in accordance with Stipulation 4.

4. ARCHAEOLOGICAL DATA RECOVERY

Data Recovery: The FHWA shall ensure that a data recovery plan is developed by UDOT in consultation with the USHPO, the Tribes, and consulting parties for the recovery of archeological data from NRHP eligible sites adversely effected by the final alignment of the Project. The plan shall be consistent with the Secretary of the Interior's Standards and Guidelines for Archeological Documentation (48 FR 44734-37) and take into account the Council's publication, Treatment of Archeological Properties (Advisory Council on Historic Preservation, 1980), subject to any pertinent revisions the Council may make in the publication prior to completion of the data recovery plan and to relevant USHPO or other guidance.

The Data Recovery Plan shall specify, at a minimum:

- the research questions to be addressed through the data recovery, with an explanation of their relevance and importance;
- the methods to be used, with an explanation of their relevance to the research questions;
- the methods to be used in analysis, data management, and dissemination of data, including a schedule;
- the proposed disposition of recovered materials and records;
- proposed methods for involving the interested public in the data recovery, including an invitation to Utah State Archaeological Society (USAS) members to volunteer where safe conditions present themselves;
- proposed methods for disseminating results of the work to the interested public, including;
 - Offering to present a talk to the local USAS chapter;
 - Preparing an article for publication in a local paper; and
 - Preparing a scripted slide show for FHWA/UDOT for future use in public education programs;
- proposed methods by which the Tribes or other consulting parties will be kept informed of the work and afforded the opportunity to participate, including;

- Extending an invitation to the Tribes (including school age children) to tour the sites while fieldwork is ongoing and where safe conditions present themselves,
 - Offering to make a presentation about the project findings to all interested Tribes at a location convenient to the Tribes;
 - Recognizing the benefits of ‘Multiple Voices’ by offering Tribes and Tribal members an opportunity to present interpretations and views that may augment or counter current archaeological theory, findings, and interpretation.
- a proposed schedule for the submission of progress reports to the FHWA, the UDOT, and the USHPO; and
 - The data recovery plan shall be submitted by the UDOT to the USHPO, and also to the Tribes, for 30 days review. Unless these parties object within 30 days after receipt of the plan, the FHWA through the UDOT shall ensure that it is implemented.

Table 1 identifies archaeological sites potentially impacted by the Project. However, only those sites located within the APE of the preferred alternative identified in FHWA’s Record of Decision and adversely effected will undergo data recovery.

Table 1. NRHP Eligible Archaeological Sites Impacted by Project (Listed by Alternative).

Site Number	A	B	C	D	E	Redwood
42Dv2	X		X	X	X	X
42Dv67						X
42Dv70		X				
42Dv77		X				
42Dv90		X				
42Dv94	X	X	X	X	X	X
42Dv97	X			X	X	

Of special note are sites 42Dv2 and 42Dv94:

42Dv2 – This property is a large site spanning both the prehistoric and historic periods. Excavations were begun in accordance with the original MOA but were halted prior to completion. During the excavation, human remains were encountered. This site is determined eligible for the NHRP under Criterion D and warrants Section 4(f) protection due to the presence of human remains and the sanctity of these burial grounds. The sacred nature of burials has been formally communicated to FHWA on numerous occasions specifically by Dr. Brewster, Director of the Tribal Historic Preservation Office of the Skull Valley Band of the Gosiutes. The site limits will be delineated and protected from construction activities through the use of construction fencing. If portions of the site are deemed necessary for the current Project at a later time, then additional consultation with the USHPO, the Tribes, and consulting parties will become necessary.

Although future work within the APE of the current Project will avoid the site, prior impacts have already adversely effected the site. In addition, a future I-15 ramp may tie into the present Project and may further impact the site. Because the I-15 ramp is a foreseeable action, its potential

impacts are disclosed in this document. However, additional data recovery for potential impacts to 42Dv2 will not take place until the need for the ramp is determined and final design and environmental clearance of the ramp is complete. Avoidance, minimization, and if necessary, mitigation measures for these future impacts will be evaluated as part of the I-15 project development. Mitigation for past impacts to 42Dv2 as a result of the present Project will include completion of the archaeological analysis and reports already underway.

42Dv94 – This site consists of human remains discovered eroding from the margins of the City Drain Canal in North Salt Lake City, Utah. The identified human remains have already been fully excavated. However, because there is sufficient potential for additional remains to be present in the site vicinity, the UDOT/FHWA has determined this site eligible for the NRHP and warrants preservation in place, and thus Section 4(f) protection, due to the sanctity of the potential burials. Like 42Dv2, site 42Dv94 lies in an area potentially impacted by a future I-15 ramp connecting into the Project. For the purposes of the current Project, a 50-foot buffer zone around 42Dv94 site limits will be delineated and protected from construction activities through the use of construction fencing. If portions of the site are deemed necessary for the current Project at a later time, then additional consultation with the USHPO, the Tribes, and consulting parties will become necessary.

5. HISTORIC STRUCTURES AND RAILROADS

Table 2 identifies Historic Structures and Railroads potentially impacted by the Project. However, only those properties located within the APE and adversely effected by preferred alternative identified in FHWA's Record of Decision would require the Full Intensive Level Survey.

Table 2. Historic Structure and Railroad Impacts (Listed by Alternative).

Property	A	B	C	D	E	Redwood
1300 Glover Lane, Farmington		X				
836 S Redwood Road, Woods Cross						X
918 S Redwood Road, Woods Cross						X
946 S Redwood Road, Woods Cross						X
974 S Redwood Road, Woods Cross						X
1650 S Redwood Road, Woods Cross						X
2018/2020 S Redwood Road, Woods Cross						X
2408 S Redwood Road, Woods Cross						X
1095 S Redwood Road, North Salt Lake						X
Clark Lane Historic District, Farmington	X	X	X	X	X	X
662 W Clark Lane, Farmington	X	X	X	X	X	X
10 N 650 West, Farmington	X	X	X	X	X	X
D&RG Railroad	X	X	X	X	X	X

Of special note is 10 N 650 West, Farmington (The White House). This historic property was comprised of a 1910 era Temple Form home. It was razed following recordation according to the stipulations of the original MOA. For the purposes of the Supplemental Environmental

Impact Statement for the Project, this property is being recognized as an adverse effect. However, the property is no longer extant and has been fully mitigated per the requirements of the original MOA, therefore, the property does not warrant further work.

- 5.1 *Intensive Level Survey:* An ILS (Historic Site Form) will be completed for any Historic Property that will be adversely affected by the Project.
- 5.2 *Photographs:* Photographs are required of all buildings or structures on the property. An adequate number of professional quality black-and-white photographs (3x5 prints with accompanying negatives) to show all exterior elevations (where possible to obtain all elevations), streetscapes, all outbuildings, detailed photographs of all areas to be impacted by the adverse effect, and photographs of exterior architectural trim/decorations, shall be submitted. Photographs shall be numbered and labeled with address (street and city) and date photograph was taken, and keyed to a site plan and floor plan. All prints and negatives shall be submitted in archival stable protective storage pages.
- 5.3 *Floor Plans:* Sketch floor plans of all eligible buildings shall be submitted. The plans must be based on an accurate footprint (e.g., Sanborn maps, tax card drawings, or measurements taken on site) and show all existing construction. Rooms shall be labeled by use. These non-measured drawings are to be on 8.5x11 or 11x17 sheets. A site sketch plan showing subject buildings and all outbuildings is also required.
- 5.4 *Research:* A legible photocopy of the entire historic tax card of the property and a 5x7 black-and-white print and negative of the historic tax card photo (if available) shall be submitted. Label and submit print and negative as described above. Other research shall be conducted as necessary to obtain complete information on the property; sources include the title abstracts, Sanborn maps, building permits, architects' file, city directories, family histories, and others.
- 5.5 *Filing:* All materials shall be submitted to the Utah Division of State History, Preservation Section, to be placed on file.

6. INADVERTENT DISCOVERY OF CULTURAL RESOURCES

The FHWA and the UDOT have developed a plan of action for consultation with the Tribes and the USHPO regarding inadvertent discovery of historic properties potentially eligible to the NRHP. The plan detailed below describes coordinating efforts among the FHWA, the UDOT, the Tribes, and the USHPO; assessment of effects to historic properties (not affecting Utah NAGPRA related issues); inventory and evaluation processes; and mitigation strategies.

In the event that cultural resources are discovered:

- 6.1 *Cease Activity:* Work will stop in the immediate area of the discovery in accordance with UDOT Standard Specification 01355, Part 1.10 as detailed in Appendix B. The UDOT will notify the USHPO and FHWA. The FHWA will subsequently notify the Council and Tribes. If Human Remains are encountered, the contractor will follow procedures detailed

in Stipulation 7 below.

- 6.2 *Evaluate Resource:* The UDOT will initiate internal coordination with their contractor to evaluate the resource for NRHP eligibility. The designated contractor will prepare draft inventory reports and recommendations regarding the NRHP eligibility of identified properties. The content and scope of the draft and final report(s) on the results of the evaluation studies will follow state guidelines as found in the UDOT's Consultant Guidelines.
- 6.3 *Determine Eligibility:* In consultation with the USHPO, the UDOT will apply the NRHP criteria (36 CFR 60.4) to all cultural resources discovered during the Project with regard to their potential for inclusion in the NRHP. This evaluation shall take into account the guidance found in all applicable National Register Bulletins.
- 6.4 *Assessment of Effect:* In situations affecting or with the potential to affect historic properties, UDOT will apply the criteria of effect and adverse effect as described in 36 CFR 800.5. A Determination of Eligibility and Finding of Effect (DOE-FOE) will be submitted to the USHPO and to the Tribes (if applicable) along with appropriate documents generated as a result of the inadvertent discovery.
- 6.5 *Treating Effects:* If the undertaking might affect historic properties, the UDOT will develop site specific treatment plans to minimize or mitigate the effects of the historic properties located within the area of the discovery in coordination with the USHPO, the Tribes and other interested parties (if applicable) as follows:
- Human remains and the associated cultural items will be treated in accordance with the Utah NAGPRA (See Stipulation 7 of this MOA).
 - The preferred alternative to mitigation is avoidance of impacts to historic properties.
 - Project redesign will be implemented when technically, economically, and environmentally feasible and prudent, to avoid the placement of the facility, or related construction activities in a manner that may affect historic properties.
- 6.6 *Data Recovery:* The UDOT shall ensure that a data recovery plan is developed in accordance with Stipulation 4 of this MOA.
- 6.7 *Reporting:* The UDOT shall ensure that all reports on activities carried out pursuant to this MOA are provided to the USHPO, the Council, the Tribes, and upon request to any other consulting parties, following completion of the activities stipulated in the MOA.
- 6.8 *Personnel Qualifications:* The UDOT shall ensure that all historic work carried out pursuant to this MOA is completed by or under the direct supervision of a person or persons meeting or exceeding the Secretary of interior's Standards for History or

Archaeology as appropriate (36 CFR 61 Appendix A).

7. PROJECT SPECIFIC PROCEDURES FOR IMPLEMENTING UTAH NAGPRA (U.C.A. 9-9-401 *et. seq.* AND ITS IMPLEMENTING RULE R230-1 AND UTAH CODE 76-9-704)

7.1 *Purpose*

7.1.1 The Parties to the MOA intend to respect and be sensitive to the cultural perspectives and responsibilities, the religious and ceremonial rights, and sacred practices of the Tribes in fulfilling tribal interests in the discovery of Utah NAGPRA related items identified during the Project.

7.1.2 If circumstances warrant and a determination is made by FHWA that federal NAGPRA applies to a discovery case during construction, then FHWA will ensure that all applicable federal procedures and requirements are met.

7.2 *Objectives*

7.2.1 To implement the legislative provisions of Utah law, specifically U.C.A. 76-9-704, 9-9-401 *et. seq.*, and R230-1 within the intent of such legislation.

7.2.2 To implement legal requirements, while respecting and maintaining the dignity of the individual and the Utah NAGPRA related cultural items potentially discovered during the Project's construction, and in conjunction with the best interests of the Tribes.

7.2.3 To facilitate UDOT compliance with Utah NAGPRA, respective to decisions that must be made, and actions taken, regarding curation, disposition, re-interment, data recovery, consultation and notification, and treatment of human remains and cultural items as defined by Utah NAGPRA.

7.2.4 To provide guidance for construction personnel regarding the discovery and notification process upon location of human remains and cultural items as defined by Utah NAGPRA.

7.3 *Implementation of Objectives*

7.3.1 UDOT will provide the Project ECS, the contractor, the FHWA, and the UDOT Regional Engineer with a set of procedures to be followed in the event of an inadvertent discovery of human remains.

7.3.2 In accordance with UDOT Standard Specification 01355, Part 1.10 (Appendix B), upon discovery of human remains (including cultural items as defined by Utah NAGPRA), construction activities within the immediate area of discovery

shall cease, the site will be secured, and notification of law enforcement, Division of Indian Affairs and USHPO Antiquities Section as required by U.C.A. 9-9-403, Utah Administrative Rule R230-1 et seq., and U.C.A. 76-9-704, will commence immediately. In addition, Tribes desiring to be notified at this time will be included on the contact list.

- 7.3.3 If the site is determined not to contain Native American remains, the UDOT will contact the FHWA, and the FHWA will notify the Tribes of such determination. Work will resume at the direction of the UDOT archaeologist.
 - 7.3.4 If the site is determined to contain Native American remains, the UDOT will contact FHWA within one (1) working day. The FHWA will provide notification to the Tribes within one (1) working day and invite the Tribes to visit the site containing the remains. If contact with the FHWA cannot be made within this timeframe, the UDOT may contact the Tribes directly for the purposes of expediting notification. The Tribes will be allowed access to the remains for the purpose of performing ceremonies, discussing treatment options, and monitoring excavation if removal is deemed necessary.
 - 7.3.5 The Tribes will be compensated for expenses incurred to visit the burial site and/or perform ceremonies. Compensation will be based on and limited to those activities included within FHWA's Native American Tribal Consultation Policies and Guidelines.
- 7.4 *Excavation versus Preservation in Place:* At such time a discovery of human remains is made and construction ceases in the area of the discovery, and having satisfied the requirements of U.C.A. 76-9-704:
- 7.4.1 If the remains are in immediate danger of harm, or in the event that construction could not move, they will be excavated in accordance with R-230-1-.1.b.
 - 7.4.2 If the site at which the remains are located can remain intact and free from immediate harm, the site will be secured and a preservation plan will be implemented according to R-230-1-7-1.a.
- 7.5 *Custody of Remains:* Any excavated Native American remains will remain in the custody of the UDOT pending:
- 7.5.1 Consultation and determination of ownership by the Native American Remains Review Committee (NARRC) pursuant to Utah NAGPRA [9-9-403 and R-230-1-13 et. seq.], or

- 7.5.2 In the event of multiple requests for repatriation, the requesting parties agree upon its disposition, or
- 7.5.3 The dispute is otherwise resolved by a court of competent jurisdiction.
- 7.6 *Repatriation:* The repatriation of the individual will be consistent with Utah NAGPRA [9-9-403 and R-230-1-13 et. seq.]. It is incumbent upon all parties to this MOA to work towards the repatriation of human remains in as timely manner as allowable by law. FHWA is responsible for ensuring that the UDOT and its consultants follow state law procedures and the stipulations contained herein.
- 7.8 *Status Inquiry:* At any time in the process, the Tribes may inquire with FHWA as to the status of human remains associated with this Project. It is the responsibility of the FHWA to address the questions and concerns of any Tribe within five (5) working days. If the Tribes are interested in verifying the physical condition and storage treatment of any human remains, a verbal or written request must be submitted to FHWA. FHWA is responsible for arranging a meeting within five (5) working days, or at the earliest convenience of the interested Tribe(s).
- 7.9 *Dispute Resolution:* Disputes on non-Utah NAGPRA related issues will be resolved according to dispute resolution procedures described in this MOA (Stipulation 8.5). The Utah NARRC Committee will resolve all Utah NAGPRA related disputes.
- 7.10 *Treatment of Utah NAGPRA Related Items and Human Remains*
- 7.10.1 Human Remains
- Any and all human remains that have been damaged or removed due to construction activity will be immediately returned to accompany the remains still present in the site.
 - Pursuant to Utah NAGPRA, scientific study of human remains may be carried out only with approval of the owner of the human remains as established in 9-9-403(1) and (2). If ownership is unknown, scientific study shall be restricted to that sufficient to identify ownership but will be limited to non-destructive analysis.
- 7.10.2 Associated Funerary Items/Items of Cultural Patrimony
- Unless otherwise identified, Associated Funerary Items/Items of Cultural Patrimony found near or about the discovery of human remains will be immediately returned to accompany the human remains. Associated

Funerary items are defined as items that, as part of the death rite or ceremony of a culture, are reasonably believed to have been placed intentionally at the time of death or later, with or near individual human remains. Objects of cultural patrimony means items having ongoing historical, traditional, or cultural importance central to the Indian tribe itself. If they are so identified, documentation of these materials will be included in the reports as funerary objects and/or items of cultural patrimony.

8. ADMINISTRATIVE STIPULATIONS

8.1 *Changes in the Undertaking*

8.1.1 Changes in the Project will not relieve the FHWA or UDOT of the responsibility of completing resource evaluations.

8.1.2 If, during the Project planning or implementation, modification and/or changes in the undertaking are proposed in ancillary areas that have not been previously inventoried for historic properties, the UDOT shall ensure that the area is inventoried and that historic properties are evaluated in a manner consistent with the inventory, evaluation, and standards identified in Stipulation 6 of this MOA. The UDOT will prepare a draft report(s) of the inventory results and submit said document(s) to the parties of this MOA for review and comment. A final report incorporating the comments of the said parties will be prepared. Final reports will be provided to the parties of this MOA.

8.1.3 The applicable Research Design shall be modified or appended, as appropriate by the contractor (s) under the direction of the UDOT, in consultation with the USHPO and the Tribes, to incorporate treatment and management measures for previously unevaluated historic properties consistent with the MOA.

8.1.4 The parties to this MOA shall be afforded an opportunity to comment within 30 days on documents prepared in response to revisions to the undertaking.

8.2 *Tribal Consultation Process:* Unless otherwise agreed upon, Tribal consultation will occur between the FHWA and the Tribes throughout the Project.

8.3 *Curation*

8.3.1 Cultural material (artifact) curation. Upon discovery and gathering of cultural items within the Project APE, exclusive of Utah NAGPRA items as defined by that act, the UDOT will ensure that the items will be placed in an appropriate repository facility as described in 36 CFR 79.

- 8.3.2 Report and Documentation curation. Upon the UDOT finalizing the documentation of the Project, all reports and documentation will accompany the cultural material consistent with the provisions described in 36 CFR 79. Upon written request of the Tribes, a copy of said documentation shall be provided for the tribal archives.

8.4 *Dispute Resolution*

- 8.4.1 Should the USHPO, the Tribes, the DIA, or the Council, object within 30 days to any documentation provided for review pursuant to this MOA, the FHWA shall consult with the objecting party to resolve the objection. If the FHWA determines that the objection cannot be resolved, the FHWA shall request further comments of the Council pursuant to 36 CFR § 800.6(b). Any Council comment provided in response to such a request will be taken into account by the FHWA in accordance with 36 CFR § 800.6(c)(2) with reference only to the subject of the dispute; the FHWA/UDOT's responsibility to carry out all actions under this MOA that are not the subject of the dispute will remain unchanged.

- 8.4.2 The Utah Division of Indian Affairs State Native American Remains Review Committee (NARRC) will arbitrate disputes relative to Utah NAGPRA in accordance with U.C.A. 9-9-405 (3)(c), if consultation fails to resolve the dispute.

- 8.5 *Document Review.* Unless otherwise stated, document review shall be 30 days following receipt of said document submitted for review. Unless notified, the FHWA may assume failure of any party to respond within 30 days indicates their concurrence.

8.6 *Amendment*

- 8.6.1 Any signatory party to this MOA may request an amendment (s), whereupon the other signature parties will consult to consider such amendment(s).
- 8.6.2 Any proposed amendment to this MOA must be submitted to the FHWA in writing, with an explanation as to the reasoning for the requested change. The FHWA will initiate consultation with the signature parties for their consideration of the proposed amendment(s).
- 8.6.3 The FHWA will provide copies of written request(s) for amendment from any signatory party to all other signature parties within 3 days, and the parties agree to begin discussions regarding proposed amendments immediately.

8.7 *Monitoring*

- 8.7.1 A monitoring plan will be included in the Research Design(s). Project monitoring will ensure all parties to this MOA that the activities and provisions of this MOA are in compliance. Monitoring will also ensure that all parties to this MOA will have oversight and updates to the Project as the Project commences.
- 8.7.2 The UDOT will ensure that particular care is taken during construction to avoid affecting any other archeological remains that may be associated with the sites recorded during the initial survey. Restrictions on construction work in all areas not previously cleared in the original Determination of Eligibility and Finding of Effect will be accomplished by erection of a temporary fence and flagging as necessary. Suitable arrangements for archeological monitoring, and any additional survey deemed necessary, will be made in consultation with the USHPO prior to construction in the APE. An archeologist meeting the Secretary of the Interior's Professional Qualifications Standards (48 FR 44738-9) will monitor the construction activities. At a minimum, such monitoring will include recording and reporting of major features or artifact concentrations uncovered, and recovery and curation of a sample of uncovered material where practicable.
- 8.7.3 The Tribes will be invited to assist in the monitoring in conjunction with the authorized archaeologist and will be compensated for their participation in such monitoring activities based on FHWA's compensation policies. Compensation is restricted to FHWA approved and authorized activities and allowances.

Execution of this Memorandum of Agreement and implementation of its terms evidence that the FHWA has afforded the Council an opportunity to comment on the **Legacy Parkway Project, Project No. SP-0067(1)0, Salt Lake and Davis Counties, Utah** and its effects on historic properties, and that FHWA has taken into account the effects of the undertaking on historic properties.

SIGNATORIES

FEDERAL HIGHWAY ADMINISTRATION

By:



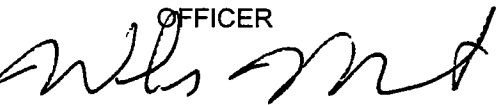
for Mr. David C. Gibbs, P.E., Division Administrator

Date:

6/13/2005

UTAH STATE HISTORIC PRESERVATION OFFICER

By:



Mr. Wilson Martin, State Historic Preservation
Officer

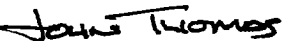
Date:

8/18/05

INVITED SIGNATORIES

UTAH DEPARTMENT OF TRANSPORTATION

By:



for Mr. John Njord, Director

Date:

6.16.05

CONCURRING PARTY

NORTHWEST BAND OF SHOSHONE OF
THE SHOSHONE NATION,
IDAHO AND UTAH

By:

Ms. Gwen Davis, Chairperson

Date:

Gwen Davis

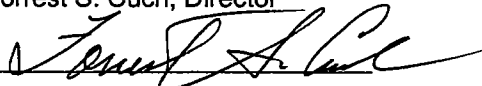
CONCURRING PARTY

UTAH DIVISION OF INDIAN AFFAIRS

By:

Forrest S. Cuch, Director

Date:


04-26-05

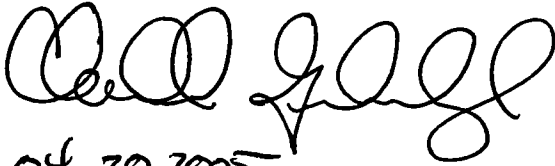
Legacy Parkway MOA

4/25/2005

CONCURRING PARTY

CLARK LANE HISTORIC DISTRICT

By:

A handwritten signature in black ink, appearing to read "C. L. Gage", written over a horizontal line.

Date:

04.20.2005



April 21, 2005

Dear Mr. Berna,

On behalf of all the neighbors in the Clark Lane Historic District, I offer our sincere thanks and appreciation for all of your hard work and efforts on our behalf. We are truly grateful for your patience and concern for the historic homes in our neighborhood.

This Legacy Parkway MOA process should be regarded as a model for historic district inclusion and communication. This is how homeowners like to be included in the planning process for major undertakings like this. We especially appreciate knowing that there will be more ongoing communication, and that you've provided us people to contact should we have any concerns during the project.

Like you, we are genuinely interested in seeing the results of the vibration impact study. We look forward to working with you closely on the study as the project moves forward.

Kind regards,

A handwritten signature in black ink, appearing to read "Chadwick Greenhalgh".

Chadwick Greenhalgh

Clark Lane Historic District Board of Trustees

208 West State Street

Farmington, UT 84025

801.244.4341

cc: Barbara Murphy, Utah SHPO; Kirk Huffaker, Utah Heritage Foundation



Legacy Parkway Memorandum of Agreement Concurring Signatures

We, the undersigned members of the Clark Lane Historic District, verify that we have been afforded the opportunity to comment on the Legacy Parkway Project and its effect on our historic properties and that the FHWA has taken into account the effects of the undertaking on our historic properties.

Name	Street Address	Date
ELISA MIKE WHITE	335 W. STATE	3/29/05
John Ballantyne	76 S. 700 W.	3/29/05
Oliver Burrows	227 W. State	3-29-05
Chae Lee Lorchel	507 N. State	5-12-05
Emily Miller	220 W. State St	3/29/05
Douglas Arnold	340 West State	4/4/05
Harold Carroll	382 W STATE ST	4/4/05
Clark Longini	367 W State	4/10/05
Matt Dault	24 N 400 W	4/10/05
Judy Clark	368 W. State St	4/10/05

Clark Lane Historic District
Legacy Parkway MOA Signatures
Page 2

Name

Street Address

Date _____

Allison M. Hurd
451-6009 / 598-0920

399 W 57th St

4/13/05

Ruth Bentley

3934. Staly St

4/13/05

Scott Eric

256 West State Street

4/13/05

268 WEST STATE STREET

Frank W. Ford

290 WEST STATE STREET

4/4/05

000000

208 WEST STATE ST

4-20-08

